

Internal Revenue Service, Treasury

§ 301.6601-1

§ 301.6532-3 Periods of limitation on suits by persons other than taxpayers.

(a) *General rule.* No suit or proceeding, except as otherwise provided in section 6532(c)(2) and paragraph (b) of this section, under section 7426 and § 301.7426-1 relating to civil actions by persons other than taxpayers, shall be begun after the expiration of 9 months from the date of levy or agreement under section 6325(b)(3) giving rise to such action.

(b) *Period when claim is filed.* The 9-month period prescribed in section 6532(c)(1) and paragraph (a) of this section shall be extended to the shorter of,

(1) 12 months from the date of filing by a third party of a written request under § 301.6343-1(b)(2) for the return of property wrongfully levied upon, or

(2) 6 months from the date of mailing by registered or certified mail by the district director to the party claimant of a notice of disallowance of the part of the request to which the action relates. A request which, under § 301.6343-1(b)(3), is not considered adequate does not extend the 9-month period described in paragraph (a) of this section.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. On June 1, 1970, a tax is assessed against A with respect to his delinquent tax liability. On July 19, 1970, a levy is wrongfully made upon certain tangible personal property of B's which is in A's possession at that time. On July 20, 1970, notice of seizure is given to A. Thus, under section 6502(b), July 20, 1970, is the date on which the levy is considered to be made. Unless a request for the return of property is sooner made to extend the 9-month period, no suit or proceeding under section 7426 may be begun by B after April 20, 1971, which is 9 months from the date of levy.

Example 2. Assume the same facts as in the preceding example except that, on August 3, 1970, B properly files a request for the return of his property wrongfully levied upon. Assume further that the district director mails, on March 1, 1971, a notice of disallowance of B's request for the return of the property. No suit or proceeding under section 7426 may be begun by B after August 3, 1971, which is 12 months from the date of filing a request for the return of property wrongfully levied upon.

Example 3. Assume the same facts as in the preceding example except that the notice of disallowance of B's request for the return of

property wrongfully levied upon is mailed to B on November 12, 1970. Since the 6-month period from the mailing of the notice of disallowance expires before the 12-month period from the date of filing the request for the return of property which ends on August 3, 1971, no suit or proceeding under section 7426 may be begun by B after May 12, 1971, which is 6 months from the date of mailing the notice of disallowance.

[T.D. 7305, 39 FR 9950, Mar. 15, 1974]

Interest

INTEREST ON UNDERPAYMENTS

§ 301.6601-1 Interest on underpayments.

(a) *General rule.* (1) Interest at the annual rate referred to in the regulations under section 6621 shall be paid on any unpaid amount of tax from the last date prescribed for payment of the tax (determined without regard to any extension of time for payment) to the date on which payment is received.

(2) For provisions requiring the payment of interest during the period occurring before July 1, 1975, see section 6601(a) prior to its amendment by section 7 of the Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115).

(b) *Satisfaction by credits made after December 31, 1957.*—(1) *In general.* If any portion of a tax is satisfied by the credit of an overpayment after December 31, 1957, interest shall not be imposed under section 6601 on such portion of the tax for any period during which interest on the overpayment would have been allowable if the overpayment had been refunded.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example 1. An examination of A's income tax returns for the calendar years 1955 and 1956 discloses an underpayment of \$800 for 1955 and an overpayment of \$500 for 1956. Interest under section 6601(a) ordinarily accrues on the underpayment of \$800 from April 15, 1956, to the date of payment. However, the 1956 overpayment of \$500 is credited after December 31, 1957, against the underpayment in accordance with the provisions of section 6402(a) and § 301.6402-1. Under such circumstances interest on the \$800 underpayment runs from April 15, 1956, the last date prescribed for payment of the 1955 tax, to April 15, 1957, the date the overpayment of \$500 was made. Since interest would have